IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1900 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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HITENDRAKUMAR NARPATSINH GADHVI

Versus

COMMISSIONER OF POLICE

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Appearance:

MR RR VAKIL for Petitioner

MR SP HASURKAR for Respondent No. 1, 2, 3

Mr.Digant P. Joshi, learned AGP for Mr.Hasurkar.

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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 13/04/2000

ORAL JUDGEMENT :

Rule. Mr.Digant P. Joshi waives service of the rule.

2. With the consent of the parties the matter is taken up for final hearing. Mr.Vakil for the petitioner points out that the petitioner was called for medical examination on 20.8.1997, but then as his chest measurement was not upto the requirement, the petitioner could not be appointed. Thereafter, the petitioner made an application for the post of Clerk on 27.10.1997, which

came to be replied by letter dated 18.8.1998, Annexure 'D' wherein it is stated that the application of the petitioner was not within the time prescribed, i.e. 5 years, the application cannot be considered. Thereafter, again the petitioner made an application on 18.9.1998, which also came to be replied on the same lines by letter dated 15.2.2000, Annexure 'F'. Both these letters dated 18.8.1998 and 15.2.2000 are hereby quashed and set aside. The authorities have erred in rejecting the application on the ground that the same is time barred. The authorities have erred and misguided themselves in not considering the application of the petitioner on merits. The petitioner was already called for the medical examination. However, due to hard luck of the petitioner, his chest measurement was not upto the requirement, otherwise, he would have got the appointment on that day itself. In the facts and circumstances, the authorities ought to have considered the application of the petitioner on merits in accordance with law without rejecting it as time barred. The application is rejected only on technical ground, which is not just and proper.

2. In the facts and circumstances of the case, the petition is allowed. The respondents are directed to reconsider the case of the petitioner in accordance with law without being technical on the point of limitation. Rule is made absolute to the aforesaid extent only.

(Ravi R. Tripathi, J.)

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